

(b) *Participating plans.* * * *

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DEPARTMENT OF AGRICULTURE**Grain Inspection, Packers and
Stockyards Administration****7 CFR Parts 800 and 810****RIN 0580-AA14****United States Standards for Barley****AGENCY:** Grain Inspection, Packers and
Stockyards Administration, USDA.**ACTION:** Proposed rule.

SUMMARY: In its periodic review of existing regulations, the Grain Inspection, Packers and Stockyards Administration (GIPSA) proposes to amend the United States Standards for Barley by: Modifying the classification system of barley to better reflect current marketing practices by establishing two classes, "Malting barley and Barley"; revising procedures to permit applicants the option of requesting either the malting standards or barley standards for malting types; revising the standards for Two-rowed Malting barley by removing the "U.S. Choice" grade designation and also combining the grading factors and limits for two- and six-rowed malting types onto a single grade chart; Amending the definition for suitable malting type to include other proprietary malting varieties used by private malting and brewing companies; revising the dockage certification procedure by reporting results in half and whole percent with a fraction less than one-half percent being disregarded; amending the definition of thins to require the use of a single sieve ($\frac{5}{64} \times \frac{3}{4}$ slotted-hole) only in the proposed class Barley and removing the grading limits from the standards; however, the level of thins will continue to be reported on the inspection certificate; revising the standards by removing the grading limits for damaged kernels, heat damaged kernels, and foreign material in the proposed class Barley; and eliminating the numerical grade restriction for badly stained and materially weathered from the standards. GIPSA further proposes to amend the inspection plan tolerances based on these proposed changes.

The objective of this review is to ensure that the barley standards are serving their intended purpose, are clear, and are consistent with GIPSA policy and authority.

DATES: Comments must be submitted on or before May 22, 1995.

ADDRESSES: Written comments must be submitted to George Wollam, GIPSA, USDA, Room 0623, South Building, PO Box 96454, Washington, DC, 20090-6454; FAX (202) 720-4628.

All comments received will be made available for public inspection at Room 0624 South Building, 1400 Independence Avenue, SW, Washington, D.C., during regular business hours (7 CFR 1.27 (b)).

FOR FURTHER INFORMATION CONTACT: George Wollam, address as above, telephone (202) 720-0292; FAX (202) 720-4628.

SUPPLEMENTARY INFORMATION:**Executive Order 12866**

The Department is issuing this rule in conformance with Executive Order 12866.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. The United States Grain Standards Act provides in section 87g that no State or subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act Certification

James R. Baker, Administrator, GIPSA, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities. Further, the regulations are applied equally to all entities.

Information Collection Requirements

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection requirements contained in the rule to be amended have been previously approved by OMB under control number 0580-0013.

Background

During December 1991, the Federal Grain Inspection Service (FGIS), which

is now part of GIPSA, distributed a discussion paper concerning the U.S. Standards for Barley. This paper addressed several issues relating to the standards and served as a starting point for discussions with producers, trade associations, processors, maltsters, brewers, handlers, and merchandisers to better understand their views on changes needed to improve existing standards. FGIS received positive feedback from the grain industry regarding the barley discussion paper; in fact, several industry officials suggested that FGIS develop and distribute similar documents before amending other marketing standards.

FGIS received a total of 13 written comments concerning the discussion paper: 1 from a malting company; 1 from a barley trade association that represents the major U.S. malting and brewing companies; 1 from a barley feed processor; 1 from a major feed grain association; 7 from producer organizations and associations; 1 from a grain handler; and 1 from a grain inspection/weighing association.

FGIS also reviewed the barley discussion paper with the FGIS Advisory Committee and the Grain Quality Workshop in January 1992. In addition, FGIS personnel participated in an industry sponsored forum in Pasco, Washington in May 1993 to gather further information on the need for changes to the barley standards. FGIS also considered ideas received during the normal course of business, recommendations from internal management and program reviews, and various other sources.

Based on the comments received and other available information, GIPSA is proposing eight changes to the barley standards that reflect current market needs and also serve to improve the effectiveness of the standards. The proposed amendments include: (1) Modifying the classification system of barley to better reflect current marketing practices by establishing two classes, "Malting barley and Barley"; (2) revising procedures to permit applicants the option of requesting either the malting standards or barley standards for malting types; (3) revising the standards for Two-rowed Malting barley by removing the "U.S. Choice" grade designation and also combining the grading factors and limits for two- and six-rowed malting types onto a single grade chart; (4) amending the definition for suitable malting type to include other proprietary malting varieties used by private malting and brewing companies; (5) revising the dockage certification procedure by reporting results in half and whole percent with

a fraction less than one-half percent being disregarded; (6) amending the definition of thins to require the use of a single sieve ($\frac{5}{64} \times \frac{3}{4}$ slotted-hole) only in the proposed class "Barley" and removing the grading limits from the standards; however, the level of thins will continue to be reported on the inspection certificate; (7) revising the standards by removing the grading limits for damaged kernels, heat-damaged kernels, and foreign material in the proposed class "Barley"; and (8) eliminating the numerical grade restriction for badly stained and materially weathered from the standards. Furthermore, this proposal amends inspection plan tolerances based on the proposed revisions to the standards.

Barley Classification

GIPSA proposes to amend the barley classification system in 7 CFR 810.202, paragraph (c), by establishing two classes of barley. Specifically, a new class "Malting barley" will be divided into three subclasses, Six-rowed Malting barley, Six-rowed Blue Malting barley, and Two-rowed Malting barley. Additionally, the new class "Barley" will be divided into three subclasses, Six-rowed barley, Two-rowed barley, and Barley. GIPSA believes these changes will assist in simplifying the barley standards.

The present barley classification system was introduced into the standards during the 1974 revisions. Prior to 1974, barley was classed based on production areas (i.e., east of the Rocky Mountains and Alaska was classed "Barley" and barley grown west of the Rocky Mountains was classed "Western barley"). The 1974 review of the standards determined that the production area was not the best method for identifying barley classes. Accordingly, the classing procedure was revised and kernel characteristics were established as the basis for this determination. Present-day standards divide barley into the three classes; Six-rowed barley, Two-rowed barley, and Barley. The class Six-rowed barley is divided into three subclasses; Six-rowed Malting barley, Six-rowed Blue Malting barley, and Six-rowed barley. The class Two-rowed barley is divided into two subclasses; Two-rowed Malting barley and Two-rowed barley. The class Barley has no subclasses.

GIPSA believes that the existing barley classing system may not reflect current marketing practices. That is, barley produced in the United States is used primarily as livestock feed or for malting. Consequently, GIPSA believes that the barley classing system should

be structured in a manner consistent with current trading practices. Therefore, GIPSA proposes to revise the classification system for barley by establishing two classes; Malting barley and Barley. The Malting class will be divided into three subclasses, Six-rowed Malting barley, Six-rowed Blue Malting barley, and Two-rowed Malting barley. The Barley class will be divided into three subclasses, Six-rowed barley, Two-rowed barley, and Barley.

Applying the Malting Standards

GIPSA proposes to amend the subclass definitions for Six-rowed barley and Two-rowed barley in 7 CFR part 810.202, paragraphs (c)(1)(iii) and (c)(2)(ii) by deleting the reference to Malting barley. This change is needed to permit applicants the option of requesting either the malting standards or the barley standards for malting types.

The present standards require official personnel to initially apply the Malting barley requirements and assign grades covered in 7 CFR 810.206 only if the sample fails to meet the malting criteria. This policy is based on the subclass definitions for Six- and Two-rowed barley. The subclass definitions for Six- and Two-rowed barley state, in part, that barley not meeting the applicable subclass requirement for malting shall be graded using the 7 CFR 810.206 grade chart.

GIPSA believes the present practice of initially applying the malting standards hampers inspection efficiency and may create market disruptions for malting varieties that are used for other purposes. Labeling barley as malting when it is being marketed for another use causes confusion and could lead to unnecessary marketing complications.

Therefore, GIPSA proposes to amend the subclass definitions for Six- and Two-rowed barley to provide the inspection system greater flexibility in meeting the market needs. This proposed amendment will also bring existing standards more in line with today's marketing practices for Malting barley.

U.S. "Choice Grade Designations"

GIPSA proposes to revise 7 CFR 810.205 by removing the U.S. No. 1 "Choice" grade designation from the chart. The factors and limits pertaining to the "Choice" grade will be retained. This revision is being sought to bring more consistency between the standards for two- and six-rowed malting types.

The current Two-rowed Malting barley standard includes a U.S. No. 1 "Choice" grade designation. The Six-rowed Malting barley standard does not

include a similar grade. The differences between No. 1 "Choice" Two-rowed Malting barley and No. 1 Two-rowed Malting barley are reflected in the test weight, skinned and broken kernels, and the thin barley grade units.

GIPSA believes that the factors and limits for the "Choice" grade designation are important to producers, maltsters, and brewers. Furthermore, GIPSA believes that the quality requirements in the standards for Six- and Two-rowed Malting barley should be more consistent in order to eliminate confusion in the marketplace and to provide more meaningful information to our customers. Therefore, GIPSA proposes to delete the U.S. No. 1 "Choice" grade designation from 7 CFR 810.205 for Two-rowed Malting barley, but retain the factors and limits as the U.S. No. 1 grade.

Malting Barley Grading Charts

GIPSA proposes to revise the grade requirements in 7 CFR 810.204 and 810.205 by: (a) Combining the factors and limits for Two- and Six-rowed Malting barley onto a single grade chart; (b) establishing four numerical grades for all Malting barley; (c) establishing separate grade limits for test weight, suitable malting types, sound barley, skinned and broken kernels, and thin barley for two- and six-rowed malting types; (d) applying the current damaged kernels grade limits in Six-rowed Malting barley to Two-rowed Malting barley and also establishing a new 5.0 percent damaged kernels limit to correspond with the proposed four grade categories; (e) applying the present limits for mold damage and injured-by-mold in Two-rowed Malting barley to Six-rowed Malting barley; and (f) applying the current grade limits for other grains and wild oats to both Six- and Two-rowed Malting barley.

In the present malting standards, separate grade charts exist for two- and six-rowed malting types. Additionally, the factor requirements differ based on the subclass. For example, the current malting standards impose limits for other grains, wild oats, mold-damage, and injured-by-mold, but not consistently for all malting types. These differences reflect the traditional variances between the production areas and markets dealing with Six- and Two-rowed Malting barley. GIPSA believes that the malting standards should be revised to more consistently apply factor requirements between two- and six-rowed types. GIPSA believes also that the proposed revisions to combine 7 CFR 810.204 and 810.205 simplify the malting standards and make them more user friendly.

Suitable Malting Type

GIPSA proposes to amend the definition of suitable malting type in 7 CFR Part 810.202, paragraph (t), to expand the list of approved malting varieties. The proposed definition will include other proprietary malting types used by various maltsters and brewers. This change will bring existing standards more in line with today's processing practices of the malting and brewing industries. Current standards require a specified level of suitable malting type before the Malting barley designation is assigned. GIPSA presently relies on The American Malting Barley Association (AMBA) to determine which malting varieties are considered suitable. Varieties other than the AMBA-designated varieties are bought and sold as Malting barley in the marketplace. For instance, several breweries are involved in the development of Malting barley types to meet various end-product specifications (Ref. 1). In many instances, these varietal types are not tested and approved by AMBA; although such varieties meet all quality requirements of the brewery.

Furthermore, AMBA revises its list of approved malting types annually by adding new varieties and deleting outdated ones. Many malting varieties that are removed from AMBA's list continue to be produced, marketed, and processed. If a previously approved malting type was offered for official inspection, the current grading system would not permit the assignment of a malting grade designation because the variety would not meet the suitable malting type criteria.

Consequently, GIPSA proposes to amend the suitable malting type definition to include varieties recommended by AMBA and other proprietary malting types.

Dockage Certification

GIPSA proposes to amend the dockage certification procedure in 7 CFR 810.104, paragraph (b). It is proposed that dockage in barley be reported in half and whole percent with a fraction less than one-half percent being disregarded. For example, at a level of 0.0 to 0.49 percent, no dockage would be reported; and 0.50 to 0.99 percent would be reported as 0.5 percent dockage. Persons interested in actual dockage percentage may request that this information be reported in the remarks section of the certificate. GIPSA believes that the change in reporting dockage will provide a more accurate description of non-barley material.

Dockage in barley consists of dust, chaff, small weed seed, very small pieces of broken barley, and coarse grains larger than barley. Present standards certify dockage in whole percents with fractions of a percent being disregarded. For example, at a level of 0.0 to 0.99 percent, no dockage is reported; and 1.0 to 1.99 percent is reported as 1.0 percent dockage. GIPSA believes that this method of reporting dockage often understates dockage levels. GIPSA believes that reporting dockage in half and whole percent increments provides a more accurate description of non-barley material, thereby, enabling handlers and end-users to make more informed decisions regarding quality, storability, and end-product yield. In addition, providing information concerning the actual dockage percentage in the remarks section of the certificate is currently available upon request. Consequently, GIPSA proposes to revise 7 CFR 810.104 (b) to certify barley dockage in half and whole percent with a fraction less than one-half percent being disregarded.

Thin Barley

GIPSA proposes to revise the sieve requirement for determining thin barley in 7 CFR 810.202, paragraph (u). It is proposed that thin barley be determined using the $\frac{5}{64} \times \frac{3}{4}$ slotted-hole sieve in the proposed class Barley and the factor thin as a grade determining factor be removed. The amount of thin kernels will continue to be reported on the official certificate as a non-grade determining factor. GIPSA also proposes to amend 7 CFR 800.162 of the regulations under the United States Grain Standards Act by adding a paragraph to require that thin be reported on each inspection certificate when the grade is reported for the proposed class Barley. GIPSA is not proposing changes to the thin determinations in the standards for Malting barley.

Present standards define thin barley as Six-rowed barley which passes through a $\frac{5}{64} \times \frac{3}{4}$ slotted-hole sieve or Two-rowed barley which passes through a $\frac{55}{64} \times \frac{3}{4}$ slotted-hole sieve. In addition, for the class Barley, which consists of a mixture of six-rowed and two-rowed barley types, thin is defined as barley passing through the $\frac{5}{64} \times \frac{3}{4}$ slotted-hole sieve. Thin is a grade determining factor in all classes and subclasses of Barley.

The issue of sieve size for determining thin kernels has been a topic of discussion for many years, and GIPSA recognizes the need for uniformity in applying procedures. Concerns over the level of thins is directly related to the

processing technique employed by the end-user. There are generally two processing strategies employed by processors which take into account the levels of thins. One involves the removal of thins before processing, and the other involves processing the grain with thins. Many buyers and sellers of barley often establish contractually the amount of thins considered appropriate.

The factor thin in the standards is a measurement of kernel size more than an indicator of overall quality in barley. A measurement of kernel size distribution may be more important to the barley industry than simply the percent of thins. GIPSA recognizes that the percent of thins is a factor used by the industry to determine market value. GIPSA has not found research that correlates barley quality to the level of thin kernels. That is, at what level do thins in barley impact on the overall nutritional quality or value. GIPSA believes that the end-user is in the best position to determine the appropriate level of thins and the market value of the grain.

GIPSA reviewed discount schedules for thins in barley from various grain companies. GIPSA's survey revealed that discounts for thins are assessed at levels ranging from 15 to 20 percent with higher discounts for thins over 20 percent. The marketplace, through discounting practices, makes adjustments for thin levels; in many instances, without regard to the official system. In brief, the industry establishes the value of barley including thins based on the end-users' needs rather than the levels as defined in the official standards.

Therefore, GIPSA proposes to amend 7 CFR 810.206 by deleting the factor thins and its corresponding grade limits for the proposed class Barley. It is further proposed to amend 7 CFR 800.162 by requiring that the level of thins be reported on each certificate representing an inspection for grade. This proposed reporting requirement, which is similar to the certification procedure for moisture, provides the marketplace with the flexibility to establish more meaningful quality limits for thins based on the specific needs of end-users. In addition, GIPSA proposes to revise 7 CFR 810.202(u) of the standards to require the use of the $\frac{5}{64} \times \frac{3}{4}$ slotted-hole sieve for thin determinations in the proposed class Barley. This proposed change would streamline the inspection process and promote uniformity in determining thins. Moreover, GIPSA believes that using a single sieve to determine thins is the best approach in order to standardize the inspection process.

Sound Barley

GIPSA proposes to revise 7 CFR 810.206 by removing the factors and limits for damaged kernels, heat-damaged kernels, and foreign material in the proposed class Barley. The standards will rely on the factor "sound barley" to relate the overall amount of damaged kernels, heat-damaged kernels, foreign material, other grains, and wild oats. In addition, applicants interested in the percentage and composition of damaged kernels, heat-damaged kernels, foreign material, other grains, and wild oats may request this information be reported on the inspection certificate.

Sound barley is the sum of the percentages of damaged kernels, foreign material, other grains, and wild oats subtracted from 100 percent. Sound barley is a grading factor in all classes and subclasses of barley. Revising the manner in which the factors sound barley, heat-damaged kernels, damaged kernels, foreign material, other grains, and wild oats influence the grade designation could simplify the standards and improve their usefulness. GIPSA believes that the factor sound barley provides adequate information without the need to establish grading limits for its component factors.

GIPSA believes that the malting barley standards should continue to provide a breakdown of non-barley material (i.e., damaged kernels, foreign material, other grains, and wild oats) due to the impact these factors have on the malting process. GIPSA believes further that the malting and brewing industries need precise information on the overall amount of sound barley as well as information as to the level of damaged barley, non-barley material, and other grains.

GIPSA believes that the standards for the proposed class Barley should be revised to rely on the factor "sound" to determine quality, provided other information concerning non-barley material and damaged kernels is available to interested parties upon request. GIPSA reviewed inspection information from its Grain Inspection Monitoring System database to determine how the factors and limits for sound barley, damaged kernels, heat-damaged kernels, and foreign material influence the final grade. GIPSA's analysis revealed that sound barley was the grade determining factor approximately 83 percent of the time when compared to component factors that define sound (i.e., damaged kernels, heat-damaged kernels, and foreign material). Consequently, GIPSA believes that it is unnecessary to have limits for the component factors. GIPSA believes

that the proposed revisions to 7 CFR 810.206 will streamline and simplify the standards while providing customers useful information needed to facilitate marketing.

Badly Stained or Materially Weathered Barley

GIPSA proposes that the grade limitation for barley that is badly stained or materially weathered in 7 CFR 810.206 be eliminated. Currently, barley that is badly stained or materially weathered is graded not higher than U.S. No. 4. In addition, it is further proposed to remove the definition for stained barley from 7 CFR 810.202(s). The determination of badly stained or materially weathered is seldom necessary because this condition also affects the level of sound kernels. In brief, factor limits for the other damages adequately conveys quality; therefore, this criterion is rarely used.

Miscellaneous Changes

GIPSA proposes to revise the format of the grade charts in the standards for Malting barley and Barley. These revisions serve to improve the readability of the grade tables.

Inspection Plan Tolerances

Shiplots, unit trains, and lash barge lots are inspected by a statistically based inspection plan (55 FR 24030; June 13, 1990). Inspection tolerances, commonly referred to as breakpoints, are used to determine acceptable quality. The proposed changes to the barley standards require revisions to some breakpoints. Therefore, GIPSA proposes to amend the breakpoint for dockage from 0.47 to 0.23. GIPSA also proposes to establish new range limits as specified by contracts and new breakpoints for heat-damaged kernels, damaged kernels, foreign material, thin barley, other grains, and wild oats in the standards.

Proposed Action

GIPSA proposes to revise § 800.86, Inspection of shiplot, unit train, and lash barge grain in single lots, paragraph (c)(2), Table 1, by combining the factors and limits from Table 2 onto a single table and amending the title. GIPSA also proposes to: (1) Delete the U.S. No. 1 "Choice" grade designation from the malting standards and create four numerical grade categories; (2) establish a minimum 43.0 pound test weight limit with a breakpoint of -0.5 for No. 4 Six-rowed Malting barley; (3) establish a minimum 95.0 percent suitable malting type limit with a breakpoint of -1.3 for No. 4 Six-rowed Malting barley; (4) establish a minimum 87.0 percent

sound barley limit with a breakpoint of 1.9 for No. 4 Six-rowed Malting barley; (5) apply current limits for damaged kernels to Two-rowed Malting barley and establish a maximum 5.0 percent damaged kernels grade limit with a breakpoint of 1.3 for barley meeting the No. 4 malting grade requirements; (6) establish foreign material limits at 0.5 percent with a breakpoint of 0.1, 1.0 percent with a breakpoint of 0.4, 2.0 percent with a breakpoint 0.5, and 3.0 percent with a breakpoint of 0.6, in grade Nos. 1, 2, 3, and 4, respectively; (7) apply current limits for wild oats to Six-rowed Malting barley; (8) apply present limits for other grains to two-rowed malting types and establish a maximum 4.0 percent grade limit with a breakpoint of 1.0 for barley meeting the No. 3 malting grade requirements; (9) establish a maximum 10.0 percent skinned and broken kernel limit with a breakpoint of 1.6 for No. 4 Six-rowed Malting barley; and (10) establish a maximum 15.0 percent thin barley grade limit with a breakpoint of 0.9 for No. 4 Six-rowed Malting barley. GIPSA also proposes to incorporate other malting factor grade limits and breakpoints (i.e., injured-by-frost, injured-by-heat, frost-damaged, heat-damaged, and kernel texture) from Table 4 onto Table 1 without any change in requirements.

GIPSA further proposes to reserve Table 2 for future use. In addition, the grade limits and breakpoints for damaged kernels, heat-damaged kernels, foreign material, and thin barley are deleted from Table 3; however, these factors are being moved to Table 4. Also, the footnote that limits barley which is badly stained or materially weathered to grade not higher than U.S. No. 4 is deleted.

Additionally, GIPSA proposes to amend Table 4 by establishing a breakpoint of 0.23 for dockage at any level. GIPSA also proposes to allow buyers and sellers of barley, excluding malting types, to specify contractually the appropriate level of heat-damaged kernels, damaged kernels, foreign material, thin barley, other grains, and wild oats. FGIS proposes to include range limits with breakpoints for these factors in Table 4 as follows:

TABLE 4.—FACTORS, RANGE LIMITS, AND BREAKPOINTS FOR BARLEY

Factor	Range limit	Break-point
Heat damage	0.0–0.5	0.1
Do	0.6–1.0	0.2
Do	1.1–2.5	0.3
Do	2.6–3.0	0.4
Do	3.1–3.5	0.5
Do	Above 3.5	0.6

TABLE 4.—FACTORS, RANGE LIMITS, AND BREAKPOINTS FOR BARLEY—Continued

Factor	Range limit	Break-point
Damage kernels	0.0–1.0	0.3
Do	1.1–2.0	0.4
Do	2.1–3.0	0.5
Do	3.1–4.0	0.6
Do	4.1–5.0	0.7
Do	Above 5.0	0.9
Foreign material	0.0–0.5	0.1
Do	0.6–1.5	0.2
Do	1.6–2.5	0.3
Do	2.6–3.5	0.4
Do	3.6–4.5	0.5
Do	Above 4.5	0.6
Thin barley	0.0–2.5	0.5
Do	2.6–4.5	0.6
Do	4.6–6.5	0.7
Do	6.6–8.5	0.8
Do	8.6–11.0	0.9
Do	Above 11.0	1.0
Other grains	0.0–0.5	0.4
Do	0.6–1.5	0.5
Do	1.6–2.5	0.6
Do	2.6–3.5	0.7

TABLE 4.—FACTORS, RANGE LIMITS, AND BREAKPOINTS FOR BARLEY—Continued

Factor	Range limit	Break-point
Do	3.6–4.5	0.8
Do	4.6–5.5	0.9
Wild Oats	0.0–0.5	0.4
Do	0.6–1.5	0.5
Do	1.6–2.5	0.6
Do	2.6–3.5	0.7
Do	3.6–4.5	0.8
Do	Above 4.5	1.0

GIPSA also proposes to amend section § 800.162 by redesignating paragraph (b) Cargo shipments as (c) and adding a new paragraph (b) Barley.

Reference

(1) U.S. Department of Agriculture in cooperation with the Colorado Agricultural Statistics Service; “1992 Colorado Barley Varieties.” Published by the Colorado Agricultural Statistics Service; Lakewood, Colorado.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, Grain.

7 CFR Part 810

Export, Grain.

For reasons set forth in the preamble, 7 CFR part 800 and 7 CFR part 810 are proposed to be amended as follows:

PART 800—GENERAL REGULATIONS

1. The authority citation for Part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

2. Section 800.86 (c)(2) Table 2 is removed and reserved and Tables 1, 3, and 4 are revised to read as follows:

§ 800.86 Inspection of shiplot, unit train, and lash barge grain in single lots.

* * * * *

(c) * * *

(2) * * *

TABLE 1.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR MALTING BARLEY

Grade	Minimum limits of—									
	Test weight (pounds)		Suitable malting types (percent)				Sound barley ¹ (percent)			
	Six-rowed	Two-rowed	Six-rowed	Two-rowed	Six-rowed	Two-rowed	Six-rowed	Two-rowed	Six-rowed only	
	GL BP	GL BP	GL BP	GL BP	GL BP	GL BP	GL BP	GL BP	GL BP	
U.S. No. 1	47.0	–0.5	50.0	–0.5	95.0	–1.3	97.0	–1.0	97.0	–1.0
U.S. No. 2	45.0	–0.5	48.0	–0.5	95.0	–1.3	97.0	–1.0	94.0	–1.4
U.S. No. 3	43.0	–0.5	48.0	–0.5	95.0	–1.3	95.0	–1.3	90.0	–1.6
U.S. No. 4	43.0	–0.5	48.0	–0.5	95.0	–1.3	95.0	–1.3	87.0	–1.9

Grade	Maximum limits of—							
	Damaged ¹ kernels (percent)		Foreign material (percent)	Wild oats (percent)		Other grains (percent)		Thin barley (percent)
	GL BP	GL BP	GL BP	GL BP	GL BP	GL BP	GL BP	GL BP
U.S. No. 1	2.0	0.8	0.5	0.1	1.0	0.6	2.0	0.8
U.S. No. 2	3.0	0.9	1.0	0.4	1.0	0.6	3.0	0.9
U.S. No. 3	4.0	1.1	2.0	0.5	2.0	0.8	4.0	1.0
U.S. No. 4	5.0	1.3	3.0	0.6	3.0	0.9	5.0	1.3

Grade		Frost-damaged (percent)	Injured-by-frost (percent)	Heat-damaged (percent)	Injured-by-heat (percent)	Mold-damaged (percent)	Injured-by-mold (percent)
		GL BP	GL BP	GL BP	GL BP	GL BP	GL BP
U.S. Nos. 1, 2, 3, & 4		0.4	0.05	1.9	0.1	0.1	0.1

¹ Injured-by-frost and injured-by-mold kernels are not considered damaged kernels or count as a deduction against sound barley.

Note: Malting barley shall not be infested in accordance with §810.107 (b) and shall not contain any special grades as defined in §810.206. Six- and Two-rowed barley varieties not meeting the above requirements shall be graded in accordance with standards established for the class Barley.

Table 2 [Reserved]

TABLE 3.—GRADE LIMITS (GL) AND BREAKPOINTS (BP) FOR BARLEY

Grade	Minimum limits of—				Maximum limits of broken kernels (percent)	
	Test weight (pounds)		Sound barley (percent)			
	GL	BP	GL	BP	GL	BP
U.S. No. 1	47.0	−0.5	97.0	−1.1	4.0	1.0
U.S. No. 2	45.0	−0.5	94.0	−1.4	8.0	1.0
U.S. No. 3	43.0	−0.5	90.0	−1.6	12.0	1.8
U.S. No. 4	40.0	−0.5	85.0	−2.2	18.0	1.8
U.S. No. 5	36.0	−0.5	75.0	−2.2	28.0	2.4

TABLE 4.—BREAKPOINTS FOR BARLEY SPECIAL GRADES AND FACTORS

Special grade or factor	Grade or range limit	Breakpoint
Dockage	As specified by contract or load order grade	0.23
Two-rowed Barley	Not more than 10.0% of Six-rowed in Two-rowed	1.8
Six-rowed Barley	Not more than 10.0% of Two-rowed in Six-rowed	1.8
Smutty	More than 0.20%	0.06
Garlicky	3 or more in 500 grams	2 1/3
Ergoty	More than 0.10%	0.13
Infested	Same as in § 810.107	0
Blighted	More than 4.0%	1.1
Heat-damaged kernels	0.0 — 0.5	0.1
	0.6 — 1.0	0.2
	1.1 — 2.5	0.3
	2.6 — 3.0	0.4
	3.1 — 3.5	0.5
	Above 3.5	0.6
	0.0 — 1.0	0.3
Damaged kernels	1.1 — 2.0	0.4
	2.1 — 3.0	0.5
	3.1 — 4.0	0.6
	4.1 — 5.0	0.7
	Above 5.0	0.9
	0.0 — 0.5	0.1
	0.6 — 1.5	0.2
Foreign material	1.6 — 2.5	0.3
	2.6 — 3.5	0.4
	3.6 — 4.5	0.5
	Above 4.5	0.6
	0.0 — 2.5	0.5
	2.6 — 4.5	0.6
	4.6 — 6.5	0.7
Thin barley	6.6 — 8.5	0.8
	8.6 — 11.0	0.9
	Above 11.0	1.0
Other grains	0.0 — 0.5	0.4
	0.6 — 1.5	0.5
	1.6 — 2.5	0.6
	2.6 — 3.5	0.7
	3.6 — 4.5	0.8
	4.6 — 6.0	0.9
	0.0 — 0.5	0.4
Wild oats	0.6 — 1.5	0.5
	1.6 — 2.5	0.6
	2.6 — 3.5	0.7
	3.6 — 4.5	0.8
	Above 4.5	1.0
	As specified by contract or load order grade	0.5
Moisture	As specified by contract or load order grade	0.5

* * * * *

3. Section 800.162, paragraph (b) is revised and (c) is added to read as follows:

§ 800.162 Certification of grade; special requirements.

* * * * *

(b) *Barley*. Each official certificate for grade shall show, in addition to the requirements of paragraphs (a) and (c) of this section, the percent of thin barley.

(c) *Cargo shipments*. Each official certificate for grade representing a cargo shipment shall show, in addition to the requirements of paragraphs (a) and (b) of this section, the results of all official grade factors defined in the Official

United States Standards for Grain for the type of grain being inspected.

* * * * *

PART 810—OFFICIAL UNITED STATES STANDARDS FOR GRAIN

4. The authority citation for Part 810 continues to read as follows:

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

5. and 6. Section 810.104, paragraph (b), is amended by revising the first and second sentences to read as follows:

Subpart A—General Provisions

* * * * *

§ 810.104 Percentages.

* * * * *

(b) *Recording.* The percentage of dockage in flaxseed, rye, and sorghum are reported in whole percent with fractions of a percent being disregarded. Dockage in barley and triticale is reported in whole and half percent with a fraction less than one-half percent being disregarded. * * *

7. Section 810.202, paragraph (c) is revised; paragraph (s) is removed; paragraph (t) is revised and redesignated as (s); paragraph (u) is revised and redesignated as (t); paragraph (v) is redesignated as (u) to read as follows:

§ 810.202 Definition of other terms.

* * * * *

(c) *Classes.* There are two classes of barley: Malting barley and Barley.

(1) *Malting barley.* Barley of a six-rowed or two-rowed malting type. The class Malting barley is divided into the following three subclasses:

(i) *Six-rowed Malting barley.* Barley that has a minimum of 95.0 percent of

a six-rowed suitable malting type that has 90.0 percent or more of kernels with white aleurone layers that contains not more than: 1.9 percent injured-by-frost kernels, 0.4 percent frost-damaged kernels, 0.2 percent injured-by-heat kernels, 0.1 percent heat-damaged kernels, 1.9 percent injured-by-mold kernels, and 0.4 percent mold-damaged kernels. Six-rowed Malting barley shall not be infested, blighted, ergoty, garlicky, or smutty as defined in § 810.107(b) and § 810.206.

(ii) *Six-Rowed Blue Malting barley.* Barley that has a minimum of 95.0 percent of a six-rowed suitable malting type that has 90.0 percent or more of kernels with blue aleurone layers that contains not more than: 1.9 percent injured-by-frost kernels, 0.4 percent frost-damaged kernels, 0.2 percent injured-by-heat kernels, 0.1 percent heat-damaged kernels, 1.9 percent injured-by-mold kernels, and 0.4 percent mold-damaged kernels. Six-rowed Blue Malting barley shall not be infested, blighted, ergoty, garlicky, or smutty as defined in § 810.107(b) and § 810.206.

(iii) *Two-rowed Malting barley.* Barley that has a minimum of 95.0 percent of a two-rowed suitable malting type that contains not more than: 1.9 percent injured-by-frost kernels, 0.4 percent frost-damaged kernels, 0.2 percent injured-by-heat kernels, 0.1 percent heat-damaged kernels, 1.9 percent injured-by-mold kernels, and 0.4 percent mold-damaged kernels. Two-rowed Malting barley shall not be infested, blighted, ergoty, garlicky, or smutty as defined in § 810.107(b) and § 810.206.

(2) *Barley.* Any barley of a six-rowed or two-rowed type. The class Barley is divided into the following three subclasses:

(i) *Six-rowed barley.* Any Six-rowed barley with white hulls that contains not more than 10.0 percent of two-rowed varieties.

(ii) *Two-rowed barley.* Any Two-rowed barley with white hulls that contains not more than 10.0 percent of six-rowed varieties.

(iii) *Barley.* Any barley that does not meet the requirements for the subclasses Six-rowed barley or Two-rowed barley.

* * * * *

(s) *Suitable malting type.* Varieties of malting barley that are recommended by the American Malting Barley Association and any other proprietary malting type(s) used by the malting and brewing industry. The recommended varieties are listed in FGIS instructions.

(t) *Thin barley.* Thin barley shall be defined for the appropriate class as follows:

(1) *Malting barley.* Six-rowed Malting barley that passes through a $\frac{5}{64} \times \frac{3}{4}$ slotted-hole sieve and Two-rowed Malting barley which passes through a $\frac{5.5}{64} \times \frac{3}{4}$ slotted-hole sieve in accordance with procedures prescribed in FGIS instructions.

(2) *Barley.* Six-rowed barley, Two-rowed barley, or barley that passes through a $\frac{5}{64} \times \frac{3}{4}$ slotted-hole sieve in accordance with procedures prescribed in FGIS instructions.

* * * * *

8. Section 810.204 is revised to read as follows:

§ 810.204 Grades and grade requirements for malting barley.

Grading factors	Grades U.S. Nos.			
	1	2	3	4
Minimum limits of:				
Test weight:				
Six-rowed	47.0	45.0	43.0	43.0
Two-rowed	50.0	48.0	48.0	48.0
Minimum percent limits of:				
Suitable malting types:				
Six-rowed	95.0	95.0	95.0	95.0
Two-rowed	97.0	97.0	95.0	95.0
Sound Barley: ¹				
Six-rowed	97.0	94.0	90.0	87.0
Two-rowed	98.0	98.0	96.0	93.0
Kernel Texture:				
Six-rowed (only)	90.0	90.0	90.0	90.0
Maximum percent limits of:				
Damaged kernels total ¹	2.0	3.0	4.0	5.0
Malting factors:				
Frost damage	0.4	0.4	0.4	0.4
Injured-by-frost	1.9	1.9	1.9	1.9
Heat damage	0.1	0.1	0.1	0.1
Injured-by-heat	0.2	0.2	0.2	0.2
Mold damage	0.4	0.4	0.4	0.4
Injured-by-mold	1.9	1.9	1.9	1.9

Grading factors	Grades U.S. Nos.			
	1	2	3	4
Foreign material	0.5	1.0	2.0	3.0
Wild oats	1.0	1.0	2.0	3.0
Other grains	2.0	3.0	4.0	5.0
Skinned and broken kernels:				
Six-rowed	4.0	6.0	8.0	10.0
Two-rowed	5.0	7.0	10.0	10.0
Thin barley:				
Six-rowed	7.0	10.0	15.0	15.0
Two-rowed	5.0	7.0	10.0	10.0
Stones	0.2	0.2	0.2	0.2
Maximum count limits of: ²				
Other material:				
Animal filth	9	9	9	9
Castor beans	1	1	1	1
Cockleburrs	7	7	7	7
Crotalaria seeds	2	2	2	2
Glass	1	1	1	1
Stones	7	7	7	7
Unknown foreign substance	3	3	3	3

¹ Injured-by-frost and injured-by-mold kernels are not considered damaged kernels or count as a deduction against sound barley.

² Determined on a representative sample before the removal of dockage, except for stones. Determine stones on a dockage-free sample.

Malting barley shall not be infested in accordance with § 810.107(b) and shall not contain any special grades as defined in § 810.206. Six- and Two-rowed barley varieties not meeting the above requirements shall be graded in accordance with standards established for the class Barley.

9. Section 810.205 is removed and § 810.206 is redesignated as 810.205 and revised to read as follows:

§ 810.205 Grades and Grade Requirements for Barley.

Grading factor	Grades U.S. Nos.				
	1	2	3	4	5
Minimum limits of:					
Test weight	47.0	45.0	43.0	40.0	36.0
Minimum percent limits of:					
Sound barley ¹	97.0	94.0	90.0	85.0	75.0
Maximum percent limits of:					
Broken kernels	4.0	8.0	12.0	18.0	28.0
Stones	0.2	0.2	0.2	0.2	0.2
Maximum count limits of: ²					
Other material:					
Animal filth	9	9	9	9	9
Castor beans	1	1	1	1	1
Cockleburrs	7	7	7	7	7
Crotalaria seeds	2	2	2	2	2
Glass	1	1	1	1	1
Stones	7	7	7	7	7
Unknown foreign substance	3	3	3	3	3

¹ Injured-by-frost and injured-by-mold kernels are not considered damaged kernels or count as a deduction against sound barley.

² Determined on a representative sample before the removal of dockage, except for stones. Determine stones on a dockage-free sample.

U.S. Sample grade shall be barley that: (a) does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; (b) has a musty, sour, or commercially objectionable foreign odor; or (c) is heating or of distinctly low quality.

§ 810.20 [Redesignated as § 810.206]

10. Section 810.207 is redesignated as 810.206.

Dated: March 15, 1995.

James R. Baker,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 95-6905 Filed 3-21-95; 8:45 am]

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Agricultural Marketing Service

7 CFR Part 1220

[No. LS-94-003]

RIN 0581-AB18

**Soybean Promotion and Research:
Amend the Order To Adjust
Representation on the United Soybean
Board and Adjust Number of Board
Meetings Required**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would adjust the number of members for certain States on the United Soybean Board (Board) to reflect changes in production levels that have occurred since the Board was appointed in 1991 and decrease the number of required Board meetings from four a year to three a year.

DATES: Written comments must be received by April 21, 1995.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service (AMS), USDA, Room